

P-3020/NA-90-90 CONCENT CEASE AND DESIST ORDER

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of a Request for a Certificate
of Convenience and Necessity to Provide
Operator, Directory Assistance and Long
Distance Services

ISSUE DATE: June 28, 1990

DOCKET NO. P-3020/NA-90-90

CONSENT CEASE AND DESIST ORDER

PROCEDURAL HISTORY

On February 15, 1990, NCN Communications Inc. (NCN or the Company) filed a petition requesting a certificate of public convenience and necessity to resell directory assistance, operator, and long distance services.

On April 16, 1990, the Minnesota Department of Public Service (the Department) filed its report of investigation and recommendations requesting that the Commission disapprove the Company's petition and order the Company to cease and desist operations in Minnesota.

On April 30, 1990, the Company filed its response to the Department's report and recommendations including an affidavit from the Company's Vice-President, Jeffrey Williams.

On or about May 15, 1990, the Department filed comments responding to the Company's April 30, 1990 filing.

On May 16, 1990, the Special Assistant Attorney General representing the Commission in this matter informed the Company by letter that the Commission requires a telephone company seeking to offer the services that the Company proposed to offer in Minnesota to obtain a certificate of convenience and necessity under Minn. Stat. § 237.16 (1988) prior to operating.

On June 12, 1990, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

1. In the late summer of 1989, NCN Communications, Inc. (NCN or the Company) acquired eight (8) customers in Minnesota through the purchase of the physical assets of National Communications Network, Inc.
2. The Company has not received approval from the Commission to provide telephone services in Minnesota as required by Minn. Stat. § 237.16 (1988).
3. The Company states that it has not begun to provide telephone service to new customers and will not do so pending the approval of its request for authority to do so.
4. Beginning in late summer 1989 and continuing to present, the Company has continued to provide long distance intrastate and interstate telephone service to the customer base that it acquired from National Communications Network, Inc. The Company states that when it receives a bill from MCI, the long distance carrier, it re-bills at a margin its 8 customers for the interstate long distance calls they have made but does not charge its customers at all for any long distance intrastate calls that they may have made.
5. The Commission has advised the Company that it is prepared to order the Company to cease and desist in its provision of telephone service.
6. The Company acknowledges that it has been advised as to its rights in this matter, including the right to appeal from a cease and desist order, and in consideration of the Commission's agreement to structure this order as a consent order expressly waives these rights. The Company further acknowledges that it has been represented by legal counsel throughout these proceedings.

ORDER

1. The Company will not extend telephone service to any new customers during the pendency of its application for a certificate of convenience and necessity;
2. The Company will terminate its provision of telephone services to the customers it currently serves in Minnesota within 21 days of the date of this Consent Order;

3. No later than 14 days prior to the effective date of the termination, the Company will notify these customers in writing of the date of this termination, and provide these customers with information regarding their options to secure continued service directly with MCI or another authorized long distance carrier of their choice; the information will include telephone numbers for the service offices of available long distance carriers.
4. Within 7 days of having terminated service to these customers, the Company will file a report verifying compliance with these terms, including a list containing the names and mailing addresses and phone numbers of each of these customers and a copy of all written materials provided to the customers in conjunction with this termination.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)

CONSENT TO ENTRY OF ORDER

The undersigned, acting on behalf of NCN Communications, Inc. (NCN or the Company), states that he has read the foregoing CONSENT CEASE AND DESIST ORDER; that he knows and fully understands its contents and effect; that he is authorized to execute this CONSENT TO ENTRY OF ORDER on behalf of the Company; that he has been advised of the Company's right to appeal an order to cease and desist; that the Company has been represented by legal counsel in this matter and that he has waived this right; and that he consents to entry of this ORDER by the Commission.

NCN Communications, Inc.

By: _____

Its: _____

STATE OF MINNESOTA)

) ss:

COUNTY OF _____)

Acknowledged before me
this____ day of June, 1990.

NOTARY PUBLIC